LWBC
LAND AND WATER
BRITISH COLUMBIA INC.

Land Use Policy
Aquaculture

NAME OF POLICY:	Aquaculture
APPLICATION:	Applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on Crown land. Does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp.
ISSUANCE:	Director, Policy and Economic Development Branch
IMPLEMENTATION:	Vancouver Island Service Region
REFERENCES:	*Land Act* (Ch. 245, R.S.B.C., 1996) Provincial *Fisheries Act* (Ch. 149, R.S.B.C. 1996) Federal *Fisheries Act* (R.S. 1985, c.F-14) Federal *Canadian Environmental Assessment Act* (R.S. 1992, c.37 [c-15.2]) Federal *Navigable Waters Protection Act* (R.S. 1985, c.N-22)
RELATIONSHIP TO PREVIOUS POLICY:	This policy replaces the previous Aquaculture policy dated 03.09.14.
POLICY AMENDMENT:	Any formal request for an amendment to this policy is to be directed in writing to the Director, Policy and Economic Development Branch.

John Willow
A/Executive Director
Business Programs and Policy Division

July 28, 2004
Date

Jim Yardley
Vice President
Land and Water Operations Division

Aug. 12/04
Date

EFFECTIVE DATE: August 16, 2004
AMENDMENT NO:

FILE: 12075-00

APPROVED AMENDMENTS:

Effective Date	Briefing Note /Approval	Summary of Changes:
April 1, 2004	BN # 14323	Update pricing for Shellfish and Finfish to implement a single land value (with annual CPI adjustments), uniform minimum rents and changes to development discounts.
July 2004	BN #14906	Amended the administrative fees section to include a new "back-end" loaded application fee payment schedule for shellfish aquaculture applications.
August 16, 2004		Changes made as a result of the Policy and Procedures Re-write Project.
February 22, 2005	BN #16333	Annual Consumer Price Index adjustments were made to Finfish and Shellfish Land Values in accordance with provisions of the Aquaculture Policy.

Preface

Responsibility for the regulation and licensing of aquaculture in British Columbia is shared by a number of provincial and federal agencies:

Land and Water British Columbia Inc. (LWBC) is responsible for land-use allocation decisions and provides tenure rights to Crown land, foreshore and aquatic Crown land on behalf of the province under authority of the *Land Act*. In addition, LWBC processes water licence applications under the authority of the *Water Act* and in accordance with existing water-use policy as required to support aquaculture tenure. To enhance client service, federal and provincial agencies have agreed that LWBC will be the "single window" for all new aquaculture applications and renewals of tenure.

The Ministry of Agriculture, Fisheries and Food (MAFF) is the lead provincial agency for aquaculture industry development. Under the authority of the *Fisheries Act,* MAFF is responsible for the development and regulation of the aquaculture industry, evaluating the suitability of production proposals and providing licensing for aquaculture operations.

The Ministry of Water, Land and Air Protection (WLAP) is responsible for regulating waste management, environmental monitoring and enforcement.

The Ministry of Sustainable Resource Management (MSRM) is responsible for integrated land and coastal marine resource planning. The Minister of Sustainable Resource Management is also Minister Responsible for LWBC.

Fisheries and Oceans Canada (DFO) is responsible for the regulation and management of wild finfish and shellfish fisheries (with the exception of wild oyster harvesting), marine navigation and major project reviews under the federal *Fisheries Act*, *Navigable Waters Protection Act* and *Canadian Environmental Assessment Act*.

The following Policy was developed by LWBC in consultation with the above agencies via the Directors Aquaculture Committee and is consistent with all appropriate legislative Acts and Regulations of the government of British Columbia.

The Policy may be revised from time to time to ensure that LWBC continues to meet the needs of key stakeholders. Suggestions for revision may be advanced to the Manager of Aquaculture, Vancouver Island Service Centre, or the Director, Policy and Economic Development Branch in Victoria.

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1. POLICY APPLICATION

The LWBC Aquaculture Program Policy applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on aquatic Crown land or foreshore. This Policy does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp or tenuring of lake areas for commercial recreation fisheries.

This Policy applies to bottom culture and floating or permanent structures required for stock grow-out, feed and equipment storage sheds, environment monitoring stations, processing facilities and other such uses that are within the tenure area and essential to the tenure holder's aquaculture operation.

This Policy does not apply to any aquaculture upland use (such as hatcheries) or to applications/tenure solely for processing facilities on aquatic Crown land (these can be considered under the General Commercial or Industrial Programs).

This Policy is consistent with service agreements, Memoranda of Understanding (MOU) and Letters of Understanding (LOU) with other federal and provincial agencies. The relevant agreements are contained in Appendix 2 and include the following:

- Memorandum of Agreement between MAFF and LWBC) regarding Administration and Development of Aquaculture on Crown Land (April 2004);
- Service Agreement on Coordination of Compliance and Enforcement Programs between MAFF, WLAP, MSRM and LWBC (March 2002).

The italicized text in this document represents information summarized from LWBC standard policies and procedures. This material has been inserted where it provides necessary direction or context. As well, website links offer access to the full text of the relevant LWBC policies and procedures. Text in standard script is applicable to this policy only.

2. PRINCIPLES AND GOALS

As a Crown corporation charged with providing access to Crown land and water resources, LWBC strives to apply sound business principles. The successful management of these assets contributes significantly to the economic, social and cultural well being of all British Columbians. LWBC's Service Plan provides the corporation's vision of how best to apply these principles in managing these resources in accordance with governing enactments.

LWBC's internal programs are directed at ensuring that LWBC staff act in accordance with applicable legal requirements when making decisions. The Guiding Principles are a summary of key administrative and contract law principles which guide LWBC.

This policy is part of a series of policies that have been developed to help LWBC staff use business and legal principles to achieve LWBC's goals with respect to the management of Crown land and water in a manner that is provincially consistent, fair and transparent. To that end, this policy also serves as a communication tool to help the

public understand how LWBC makes decisions respecting Crown land and water resources.

The Provincial Government supports the sustainable development of the aquaculture industry and acknowledges aquaculture as a legitimate use of the coastal resource that makes decisions based on sound science and ensuring business practices are conducted in an environmentally, socially and economically sustainable manner.

3. DEFINITIONS

Application guidelines means guidebooks and checklists developed to assist applicants in completing management plans and other components of the application package (see Appendix 4).

Application package means the Crown land application form, management plan and other supporting materials form the information package required to evaluate an aquaculture proposal and issue tenure under the *Land Act* and aquaculture licences under the provincial *Fisheries Act.*

Aquaculture means the growing and cultivation of aquatic plants, finfish, shellfish or other invertebrates for commercial purposes in any water environment or in human made containers of water, in or under the foreshore or in water.

Aquaculturalist means the holder of an aquaculture licence issued pursuant to the provincial *Fisheries Act.*

Aquatic Crown land means that land below the visible high water mark of a body of water, extending offshore to the recognized limit of provincial jurisdiction, including the foreshore.

Ancillary use means a floating or permanent structure or facility required in cultivation, harvesting, research and monitoring of the aquaculture resource for which tenure has been issued. Includes feed and equipment storage sheds, environment monitoring stations, small laboratories, floating residential sites and processing facilities that is/are part of the tenure holder's aquaculture operation.

Beach tenure means an aquatic Crown land tenure situated on the foreshore between the low and high water marks.

Diligent use means compliance with a management plan, and satisfactory production as determined from time to time in consultation with the appropriate administering agency (see section 9.5.3).

Extensive area means the area of Crown land used for anchoring structures outside of intensive areas that do not impede navigation or access to lands beyond.

Finfish means freshwater fish and marine finfish species including salmon and non-salmonid species, such as trout and sablefish.

Improvements means any additions or alterations to Crown land tenure or physical structures that will temporarily or permanently occupy space on the tenure site required for the cultivation of a culture species. Improvements may include, but

are not limited to, longlines, anchor lines, rafts, floats, barges, net pens, net cage arrays, vexar cover or fencing, docks, storage sheds or other buildings.

Intensive area means the area of Crown land used for aquaculture activities and related improvements directly associated with the production of finfish, shellfish or marine plants. The intensive area will include net cages, netting, float camps, net storage, docks and mort sheds as well as a 30-meter buffer around these structures. The 30-meter buffer is mandatory and is intended to cover the area where anchor lines are likely to pose a restriction to navigation due to the scope and angle of lines closest to the structures. Outside of the 30-meter buffer the lines are generally at a suitable depth to allow safe passage of a boat; however, any anchor lines beyond the 30-meter buffer that restrict access or hamper navigation will also be included as part of the intensive area.

Management plan means the legal document that details the specific operational requirements for an aquaculture licence and tenure, including the nature of the improvements and operations. The management plan also includes provisions for the diligent use of such tenures. Management plans contain information required by LWBC, MAFF and DFO for their statutory decision-making authority. The approved management plan is referenced in the tenure document and forms part of the tenure agreement; it also becomes a specific condition of a MAFF aquaculture licence. See Appendix 3 for the standard management plan format.

Management plan and supporting materials means the legal document containing operational requirements plus supporting documents, maps, etc. which provide more in-depth information required by LWBC and other agencies (e.g. information required by WLAP to satisfy the requirements of the *Aquaculture Waste Control Regulation*). See Appendix 3 for the standard formats of the supporting material.

Multiculture techniques means aquaculture within the same tenure involving more than one technique to culture the same organism (e.g. shellfish bottom and off-bottom culture).

Phased Development means development of a number of sites in a sequential manner.

Project Review Team (PRT) means a team chaired by LWBC and comprised of recognized agencies and groups which meets to review and comment on specific *Land Act* applications.

Shellfish means aquatic plants, shellfish or other aquatic invertebrates.

4. ABBREVIATIONS

BCA - BC Assessment

DFO - Fisheries and Oceans Canada

ha. - Hectare

LWBC - Land and Water British Columbia, Inc.

MAFF - BC Ministry of Agriculture, Food and Fisheries

MOU - Memorandum of Understanding

MSRM - BC Ministry of Sustainable Resource Management

MWLAP - BC Ministry of Water, Land and Air Protection

PRT - Project Review Team

VISR - LWBC's Vancouver Island Service Region located in Nanaimo, BC

5. APPLICANT ELIGIBILITY

Applicants for new tenures, tenure assignment, or tenure replacement must be:

- *Canadian citizens or permanent residents 19 years of age or older; or,*
- *Corporations which are incorporated or registered in British Columbia; or,*
- *Registered partnerships, cooperatives, and non-profit societies which are formed under the relevant provincial statutes; or,*
- *First Nations can apply through band corporations or Indian Band and Tribal Councils. Band or Tribal Councils require a Band Council Resolution a) authorizing the council to enter into the tenure arrangement, and b) giving the signatories of the tenure document the ability to sign on behalf of the Band. For tenures which are to be registered in the Land Title Office, First Nations must apply through either a band corporation or trustees. Band members can elect 1 or more trustees to hold a tenure on behalf of the Band. Verification of election must be by way of a letter signed by the Chief and councilors of the Band giving the full names of the trustees and stating that they were elected at a properly convened meeting of the Band. A Band Council Resolution is not required.*
- *In the case of aquatic land, non-Canadians can apply if they own the adjacent upland (companies must still be incorporated or registered in B.C.).*

For more detailed standard policy information see Eligibility and Restrictions.

Service Centre Directors have the discretion to limit the number of active applications from any one individual or company being processed at any one time.

5.1 Applicant Eligibility for Finfish Tenures

Existing operators must re-site finfish farms that are on the current relocation list for environmental or social conflicts, with the exception of approved pilot projects for testing green technologies, before any new finfish farm sites will be approved for that operator (as per March 28, 2002, letter to industry from LWBC's President and Chief Executive Officer). Applications for new finfish aquaculture sites can be submitted and may be processed concurrently with relocation sites, however, the first approved new site must be for the relocation.

New species tenure will not be given priority over salmon farm relocations, however, they can proceed through the approval process concurrently with salmon farm applications.

6. FORM OF LAND ALLOCATION

Refer to Appendix 1 for a summary table of the types and terms of Crown tenure available for aquaculture operations.

For more detailed standard policy information see Form of Crown Land Allocation.

6.1 Investigative Permit

The tenure holder must permit public access to the area without interference, and must recognize that overlapping and layering of tenures may be authorized by government.

The maximum term for an investigative permit is 2 years.

Investigative permits are not usually issued for aquaculture. At the discretion of the Director, Vancouver Island Service Region (VISR), where the particulars of the situation warrant it, a permit may be issued to allow for the investigation of project feasibility or the placement of monitoring equipment. In general, a permit holder may not conduct commercial activity during an investigative period. Under limited circumstances, authorization can be provided for "proof of concept" and/or pilot-scale sales. Product sales can recover some or all of the operational costs but full commercial production is not allowed under investigative permits.

LWBC will not accept competing aquaculture applications over the site during the term of the permit. Only the permit holder may apply for long-term tenure during the term of the permit. An investigative permit does not guarantee any future tenure.

Investigative Permits may be replaced at the discretion of the Director, VISR, when supported by a legitimate business requirement.

6.2 Licence of Occupation

A licence of occupation may be issued where minimal improvements are proposed, where short-term tenure is required, and in remote areas where survey costs are prohibitive. It may also be used to allow development to proceed while awaiting completion of survey requirements for a lease or right of way.

A licence of occupation conveys fewer rights than a lease. It conveys non-exclusive use for the purpose described, is not a registerable interest that can be mortgaged, and does not require a survey.

A licence of occupation does not allow the tenure holder to curtail public access over the licence area except where it would impact the licencees' right to use the land as per the licence document. Government may authorize overlapping and layering of tenures.

The standard form of Crown land tenure for a shellfish or finfish aquaculture operation is a 20-year licence of occupation.

An initial 5-year licence of occupation is generally issued for new finfish sites to allow the operator to prove site viability. A 5-year licence of occupation may also be used to authorize experimental shellfish or finfish aquaculture sites or sites involving new technologies. One replacement of the initial 5-year licence can be authorized if the site is still under development (as confirmed by the province). Otherwise a standard 20-year licence would generally be issued following the initial development licence.

A management plan is required for all finfish and shellfish tenure applications (see Appendix 3).

6.3 Lease

A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid conflicts.

The tenure holder has the right to modify the land and/or construct improvements as specified in the tenure contract. The tenure holder is granted quiet enjoyment of the area (exclusive use).

A legal survey will generally be required at the applicant's expense to define the tenured area. A lease is a registerable interest in the land that is mortgageable.

The standard term for a lease is 30 years.

Aquaculture proponents may apply for a lease as a replacement for their initial five-year licence of occupation. Crown land leases are not typically used for aquaculture tenure and where they are, it is more common for shellfish operations than finfish farms. It is at the discretion of the Service Centre Director, VISR, to offer a long-term lease where the particulars of the situation warrant it. A lease will only be offered where it meets the requirements of good land-use decision-making and does not compromise riparian rights, marine navigation, First Nations' interests or other significant values as determined by the Service Centre Director, VISR. A management plan is required for all finfish and shellfish tenure applications (see Appendix 3).

6.4 Sale

Not available under this program. Sale of upland sites may be available through the General Commercial or Industrial programs, dependent on local government zoning.

6.5 Reserves

Federal and provincial agencies may apply for the establishment of an aquaculture reserve to withdraw from disposition high value aquaculture sites required for public purposes, including research and education, and to address First Nations' interests.

7. PRICING POLICY

7.1 Administrative Fees

Application fees for tenures, and other administrative fees, are payable to LWBC. These fees are set out in the fee schedules contained in the Crown Land Fees Regulation.

For the aquaculture program, LWBC also collects fees payable under the provincial *Fisheries Act* Aquaculture Regulation. Application fees and other common administrative fees are listed in Appendix 1.

7.2 Application Fee

The application fee for new shellfish and finfish aquaculture tenures is $4925.

To provide some up front cost relief for shellfish aquaculture applicants, only $500 of the application fee is to be paid when the application is submitted to LWBC. The remainder of the fee is to be paid once a decision has been made on the application. The net amount of the remaining "back-end" portion of the fee will be determined by factoring in any refund that is due to the client (see the Fee Refund policy). Specifically, clients applying for new shellfish aquaculture tenures will be required to pay:

- $500 up front at time of application submission; and
- $4425 payable at time of tenure offer (no refund, total net payment is $4925), or
- $3440 payable when an application is disallowed (20% refund, total net payment is $3940), or
- $1962.50 payable when the application is abandoned (50% refund, total net payment is $2462.50).

Multiple shellfish beach sites may be included in a single application if the individual sites would not be economically viable as stand alone tenures and the individual sites are approximately within a 500m radius of each other.

7.3 Finfish Annual Rent

7.3.1 Finfish Land Value

The land value for finfish aquaculture sites is set at $8248/ha as of April 1, 2005. Finfish Land Value will be adjusted annually to account for CPI changes.

Development Discount

A developmental discount will be applied to new farms on the north coast (above Cape Caution) to encourage investment and business development. Rent for the first 5 years after the initial tenure is issued will be discounted by 50% (the minimum rent of $600/yr will still apply). The developmental discount will only be available on an interim basis during the five year period following implementation of this policy (i.e. it will not be available for new tenures after March 31, 2009).

7.3.2 Investigative Permit

$250 for terms up to one year, or $500 prepaid for 2 years.

7.3.3 Licence of Occupation

Intensive areas – annual rent is calculated as 7.5% of the Finfish Land Value

Extensive areas – annual rent is 7.5% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $600.

The pricing for freshwater finfish aquaculture will be equivalent to the Finfish Land Values for marine finfish aquaculture.

7.3.4 Lease

Intensive areas – annual rent is calculated as 8% of the Finfish Land Value.

Extensive areas – annual rent is 8% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $600.

7.4 Shellfish Annual Rent

7.4.1 Shellfish Land Value

The land value for shellfish aquaculture will be $5402 per ha as of April 1, 2005. The Shellfish Land Value will be adjusted annually to account for CPI changes.

Phase-in: the current land values for existing shellfish sites are to be doubled each year until the above Shellfish Land Value is attained.

Development Discount

Any new shellfish tenure (does not include any previously tenured areas) will be eligible for reduced pricing during the first 5 years. A developmental discount rate of 50% of the Shellfish Land Value is to be used as of April 1, 2004. The minimum rent of $600/yr will still apply.

7.4.2 Investigative Permit

$250 for terms up to one year, or $500 prepaid for 2 years.

7.4.3 Licence of Occupation

Intensive areas annual rent is calculated as 4% of the Shellfish Land Value.

Extensive areas – annual rent is 4% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $600.

7.4.4 Lease

Intensive areas – annual rent is calculated as 5% of the Shellfish Land Value.

Extensive areas – annual rent is 5% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is $600.

7.5 Ancillary Residential Use

Upland residential sites required to support aquaculture operations may be considered under LWBC's Residential policy. Fees and rents will be assessed in accordance with that program.

Floating facilities for residential use can be included as part of the general aquaculture tenure (licence or lease). No additional application or processing fee is required to include floating facilities for ancillary residential use within an aquaculture tenure. An additional rent will be charged for residential use with a minimum additional rent of $500/year.

8. ALLOCATION PROCESSES

Areas of Crown land which have the capability and suitability to support aquaculture may be identified through an integrated resource planning process or aquaculture specific coastal plans (e.g., Aquaculture Opportunity Studies; Shellfish Aquaculture Action Plans). These planning processes involve significant local community and sector input for marine activities in the area. The resulting maps and reports can help direct clients to apply for aquaculture tenure in areas with a higher likelihood of approval and avoid locations with significant environmental issues or social conflicts.

LWBC will take into consideration input from these resource planning and advisory processes, where they exist, as well as other sources contacted as part of the referral process when making planned tenure dispositions or evaluating individual applications. LWBC will also take into consideration the Provincial Government's sustainability principles in its decision-making.

Where an Economic Measures MOU is in place with First Nations and where community criteria for tenure selection has been established for shellfish aquaculture, new applications will be accepted for suitable sites where they do not conflict with sites identified in the MOU.

In the absence of a formal Economic Measures MOU or MOU sites selection agreement with First Nations, LWBC will accept shellfish tenure applications. These will be subject to Aboriginal Interest Consideration Procedures, any completed coastal resource plans, standard referral processes and community input as part of the public consultation process.

Where a coastal resource planning process or an Economic Measures negotiation is actively in progress, the Service Centre Director, VISR, may designate specific areas of the coast where aquaculture applications will be accepted but will be parked until the associated planning process or negotiations are concluded in a timely manner.

8.1 Applications

New and replacement tenures are normally offered in response to individual applications.

For more detailed standard policy and procedures regarding the application process see Applications.

A flow chart outlining the basic components of the acceptance screening, referrals and adjudication processes for applications can be found in Appendix 5.

8.1.1 Application Package

Applications submitted to LWBC must be complete before they can be accepted for processing. A complete application package will include all the material defined in the Application Checklist.

Aquaculture guidebooks and checklists are available to assist applicants in preparing their application package for finfish or shellfish aquaculture (see Appendix 4 for a list of weblinks).

Completed application packages must be submitted to LWBC's Vancouver Island Service Region (VISR).

A. Parcel and Siting Considerations

Siting Criteria for Aquaculture Tenure

Specific guidelines regarding separation distances and other siting considerations have been developed and are included in the standard management plans and application guidebook. Siting considerations include:

- riparian rights and requirements for navigation;
- First Nations potential aboriginal interests and rights;
- environmental and social concerns.

The Service Centre Director, VISR, at the request of the PRT and in consultation with relevant regulatory agencies, has the discretion to modify general siting criteria or establish additional density and separation requirements where appropriate.

Where separation guidelines are not met, applicants must include a detailed explanation and justification for proceeding with the application.

Parcels for Tenure Expansions

A parcel must not be capable of being a stand-alone site to be considered for expansion. In general, the add-on parcel must be of reasonable size (e.g. shellfish tenure may be expanded by up to 20% of their original tenure size or 2.5 ha. for inter-tidal sites and 10 ha. for deep water sites, whichever is greater). A site is not considered stand-alone if it is not economically viable due to the following factors:

- high utilization cost if the site is located too great a distance from the market;
- expected low return on the effort spent if site has poor biophysical conditions;
- low potential production;
- restricted operation time if the site is subject to closures due to pollution;
- restricted production methods or production intensity as defined in the management plan due to tenure size; or

- utilization is not feasible due to access restrictions (e.g. the site is only accessible though an existing tenure).

The characteristics that make a site "stand alone" will depend on the species cultured as economic factors and biophysical requirements vary among species. The determination of a site's ability to be "stand alone" will rest with the Service Centre Director, VISR, in consultation with MAFF.

An expansion parcel must not impede riparian access to upland properties or reasonable access to other established tenures. Deepwater expansions cannot impede the movement of boats and equipment required for the operation of existing tenure.

This policy does not guarantee that applications for tenure expansion will receive a favourable land-use decision.

B. Management Plan

All aquaculture applications require a management plan and supporting materials, regardless of the assigned complexity level. The appropriate standard formats (contained in Appendix 3) for the management plan and supporting materials must be followed.

A revised management plan is required by LWBC where:

- significant alteration of site improvements and/or layout of structures on the tenure are proposed. For example, adding structures to the site not approved in the current plan such as rafts or work floats to support day to day operations, converting from longlines to rafts, or reorienting structures in a manner that has not been approved in the *Navigable Waters Protection Act* permit (a tenure holder is to contact the LWBC Aquaculture Manager to determine if a proposed alteration is significant);
- any proposed expansion or reduction in the size of the tenure; and/or,
- proposed new culture of a species not already included in the list of acceptable species identified on the aquaculture licence issued by MAFF.

Polyculture

Applications for the same site and involving both shellfish and finfish (polyculture) require separate management plans. Information that is common to more than one plan (location map, site layout of improvements, etc.) may be submitted only once.

Multi-culture

Applications involving multi-culture techniques require a single management plan.

C. Tenure Expansions

The completed application package for tenure expansion is the same as for a new tenure. It would include a new management plan and supporting materials to cover both the original tenure and the expansion areas. Where a tenure expansion is being proposed, a new plan must make clear how the expansion parcel will improve the overall operation. The new plan must state proposed production levels. See Section 8.1.5 for additional notification requirements for shellfish tenure expansions.

8.1.2 Application Acceptance

New applications will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary statusing, and other information which may be available to LWBC staff. The acceptance review is to be completed within 7 calendar days. Applications that are not accepted will be returned to the applicant.

In consultation with the Aquaculture Manager, the Client Service Coordinator will review the application against the Site Application Checklist (see Appendix 4) to determine whether it is complete and the proposal complies with specific program requirements in order to be accepted.

Once an application is accepted the following actions will be taken:

- Client Service Coordinator will ensure that all accepted applications are noted on regional status maps;
- Client Service Coordinator will forward the newly accepted application to the Aquaculture Manager, noting that the application is parked pending Aquaculture PRT screening;
- Aquaculture Manager will notify the PRT and make arrangements for inter-agency screening of the application as per Section 8.1.4.

LWBC will accept, but not adjudicate, applications in those areas where:

- aquaculture specific resource planning processes are in progress; or
- significant negotiations are in progress to establish Economic Measures MOUs with First Nations or develop associated community consultation criteria.

8.1.3 Queuing/Competing Applications

In general, competing aquaculture applications (eg. Applying for aquatic lands already the subject of a previously accepted aquaculture application) will be dealt with through a queuing process (see Section 8.2 for exceptions where a competitive process may be used).

For finfish, competing applications will be defined as an application for an area that is:

- within one km of a site with a prior accepted application from the same company; or
- within three km of a site with a prior accepted application from a competing company.

For shellfish, a competing application is an application that is applying for part or all of a prior accepted application's site.

If it is confirmed that an aquaculture application is competing with a previously accepted application, the Client Service Coordinator will notify the proponent that their application

is for an area already applied for, inform them of LWBC's policy to adjudicate the first application accepted and offer them a choice between the following options:

- secure a place in a queue which will ensure the application is processed by LWBC once any prior accepted application(s) for the specific area have been formally disallowed; or
- have the application and administration fee payment returned.

If the first option is chosen the proponent is informed that this now authorizes LWBC to cash the application fee.

If the prior application is disallowed the next application in the queue will then be processed. The Aquaculture Manager will forward the first application in the queue for the applicable area to the PRT for screening.

If an earlier applicant accepts a tenure offer, all applicants in the queue will be notified by LWBC of the decision and the queue is cleared. LWBC will retain $500 from each application held in the queue, the remainder of any application fees paid to LWBC will be returned to the applicants. There will not be any refund provided to shellfish aquaculture applicants who have only submitted the $500 "up front" portion of their application fee (see section 7.1 for more details).

8.1.4 Clearance/Statusing

After acceptance, LWBC undertakes a detailed land status of the specific area under application to ensure all areas are available for disposition under the Land Act and to identify potential issues.

8.1.5 Referrals

Referrals are a formal mechanism to solicit written comments on an application from recognized agencies and groups. Referrals are initiated as per legislated responsibilities and formal agreements developed with other provincial and federal government agencies. Referrals may also be used to address the interests of local governments and First Nations. Referral agencies, organizations and identified special interest groups provide their responses to LWBC within 30 days (45 days for First Nations).

Where tenure applications meet established siting criteria and other specific requirements as set out in formal agreements with other provincial and federal government agencies, and where the topic has been formally included in the terms of the agreement, referrals will not be conducted. All current agreements are included in Appendix 2.

The Aquaculture Manager will ensure that all aquaculture applications for both new and replacement tenure, as well as major amendments to existing approved management plans, are referred for review and comment to agencies, organizations and other special interest groups. Finfish and shellfish referral checklists will be maintained by the Aquaculture Manager.

Fisheries and Oceans Canada may respond by informing applicants and LWBC that a review under *Canadian Environmental Assessment Act* or *Navigable Waters Protection*

Act is underway. The Service Centre Director, VISR, may choose to park the application until the federal environmental review is completed.

The Aquaculture Manager will ensure referral responses are tracked and interpreted and that referral responses are provided to MAFF and DFO as per current agreements.

Referrals to First Nations will be carried out as per the Aboriginal Interest Consideration Procedures and, wherever possible, harmonized with MAFF and DFO. It is recognized that provincial consultations with First Nations are not meant to replace or satisfy federal aboriginal consultation requirements.

8.1.6 Project Review Team (PRT)

A Project Review Team (PRT) is an advanced referral method which may be used for complex applications. It is a team chaired by LWBC and comprised of recognized agencies and groups which meets to review and comment on specific Land Act applications.

The aquaculture PRT is responsible for reviewing application packages, determining if information requirements are complete and reporting findings to LWBC. In accordance with the terms of reference for the inter-agency Project Review Team (see Appendix 2), official membersnip of the PRT will initially include the following representation:

LWBC (1)	MAFF (1)
DFO – Coast Guard (1)	DFO – Major Projects Review Unit (1)
WLAP (1)	

Specific agency representatives may also change depending if the PRT is screening shellfish or finfish applications.

For all finfish and shellfish applications received and accepted by LWBC, the PRT will have 30 days from the date of notification by the Aquaculture Manager to undertake an initial screening to:

- ensure proponents have provided adequate technical information for government agencies to effectively review the application package; and
- review and compare applications against approved siting criteria and evaluate whether all the required siting buffer information has been provided.

If there are any information omissions, LWBC will ask the proponent to supply the missing information within a specific timeframe determined by the Aquaculture Manager that does not exceed 60 days. The proponent will provide the additional information to LWBC which will then disseminate the information to the PRT review agencies. If the applicant does not provide the requested missing information within the timeframe stipulated, the applicant is informed by letter that the application has been disallowed and any further continuation of the proposal will require another application and fee.

Once the PRT has completed its screening and if the application is not disallowed the Aquaculture Manager will:

- ensure that the client is informed of the timeframe for adjudication of the application;
- direct the Client Service Coordinator to un-park the application and initiate the 140-day TTAT to complete the adjudication process;
- ensure the application is posted on LWBC's web site and the status of the application on the web is updated when adjudication is complete;
- refer the management plan and supporting materials to review agencies, local governments and other interests (as outlined above under referrals).

The PRT, as a whole, may invite presentations and submissions from the applicant. Where required, staff from agencies participating on the PRT may also contact the proponent directly (for example, with questions about data provided or additional information required). When this occurs, those officials will be expected to indicate to the PRT Chair (LWBC) the nature of the contact (i.e. topic, results of discussion, any correspondence, etc.).

Additional federal or provincial agency staff may attend meetings on request or by invitation, but may only address agenda items or introduce additional items at the discretion of the Chair and official PRT members. Individual PRT agencies may choose to have additional staff attend for information purposes, but approval from the Chair and official PRT members is required for other staff to participate in discussions.

The PRT may, at times, be expected to respond to LWBC's request for additional advice such as evaluating and weighting criteria to assist LWBC in dealing with competing applications (refer to Section 8.2 on Competitive Processes).

8.1.7 Advertising/Notification

At the time of application acceptance, LWBC notifies applicants if advertising is required and provides the necessary instructions.

Staking is required for aquaculture applications. A person intending to apply for Crown tenure is required to post a notice indicating his or her intention to do so at the intended location. This notice must contain the applicant's name and address, the site being applied for by local name, the area of application, a metes and bounds description (including latitude and longitude) and the purpose of the application.

At the discretion of the Service Centre Director, VISR, applications may also be required to seek public input through additional mechanisms - open houses, local advisory committees, including stakeholders on Project Review Teams, etc.

All new finfish applications will require public consultation which will most often be conducted via an open house session in a local community near the area under application. Where possible, LWBC will coordinate the holding of such an open house with MAFF and DFO.

An open house will be conducted in accordance with the checklist found in Appendix 4. Applications for investigative permits or tenure replacements do not require public consultation or open houses.

LWBC may need to coordinate advertising with other organizations that also have this requirement, in particular MAFF and DFO.

The availability of tenure sites by public competition (see Section 8.2) or other proactive offerings by LWBC (other than direct application) will be advertised by LWBC.

After PRT review and acceptance by LWBC, all applications (specifically, the application, location map and a site design layout) and their status will be posted on LWBC's website.

A. Additional Notification Requirements for Shellfish Tenure

Where an application for a shellfish tenure (new or expansion) covers an area which may affect an existing shellfish tenure's ability to expand, then the applicant will notify neighbouring tenure holders of the application by a registered letter. The purpose of the notice is to alert the neighbouring tenure holders of the application and provide an opportunity for these tenure holders to identify issues or concerns with the proposal.

The applicant must confirm that the notification has taken place no later than 30 days from the acceptance date of the application. If the regional office does not receive the necessary confirmation within this timeframe, the application may be disallowed. Notification of neighbouring tenure holders can also be done prior to making application, in which case the confirmation can be submitted along with the application. This latter approach is encouraged to avoid delays and reduce the need for application amendments (concerns can be worked out amongst tenure holders ahead of time).

For expansions that are proposed for areas adjacent to or between other existing tenure that would likely limit the other tenure holders ability to expand in the future (as per Parcels for Tenure Expansions under Section 8.1.1) the following applies:

- if within 30 days of the notification date all neighbouring tenure holders confirm that the proposal will not conflict with their plans for expansion the application will proceed;
- if within 30 days of the notification date a neighbouring tenure holder(s) express an interest in expanding their tenure (written confirmation) and the applicant's proposal will conflict with such expansion, the applicant's proposed area may need to be reduced to ensure that the area adjacent to and between the existing tenure can be divided equitably between those existing tenure holders who wish to expand. If an expression of interest is submitted by a neighbouring tenure holder(s) the applicant's initial application will be parked until such time as an application(s) is received by LWBC from the other tenure holder(s) - this must be done no later than 60 days from the receipt of the expression of interest. The adjacent area will only need to accommodate multiple expansion parcels (be divided between the applicants) for those tenure holders that submit an application within the 60-day period.

The Service Centre Director, VISR, may, at his or her discretion, reduce or revise the area under application in consultation with the proponent and the neighbouring tenure holder.

B. Upland Owner Consent

Owners of waterfront property have certain "riparian rights" which include the right of access to and from the upland (see Riparian Rights and Public Foreshore Use in the Administration of Aquatic Crown Land). LWBC will advise applicants if there is a need to obtain a letter indicating the upland owner's consent to their application.

C. Adjacent Owner Notification

New applications to tenure foreshore adjacent to privately owned property, including Indian Reserves, are brought to the adjacent property owner's attention through referrals or direct contact. In certain circumstances, LWBC may advise applicants that there is a need to obtain a letter indicating adjacent owner's consent to their application.

8.1.8 Aboriginal Interests Consideration

LWBC is responsible for ensuring the province's fiduciary obligations to First Nations are met in the disposition of Crown land. LWBC carries out consultations in accordance with its Aboriginal Interests Consideration Procedures and the consultation guidelines of the Province to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.

A copy of the aboriginal interest assessment report will be provided to MAFF for consideration in their aquaculture licence determination.

It is recognized that DFO has a separate process for First Nations consultation in order to meet federal fiduciary obligations and, where possible, provincial and federal agencies should try to harmonize First Nations referrals on the same application.

8.1.9 Field Inspections

Field inspection means the on-site evaluation of a parcel of Crown land. The need to conduct a field inspection will vary and the decision to make an inspection ultimately lies with LWBC.

LWBC and MAFF will coordinate and share information on field inspections and may invite other relevant federal and provincial agencies to participate in inspections. Site data collected by other federal and provincial agencies may be used by LWBC.

For existing tenures, MAFF will undertake field inspection monitoring activities on LWBC's behalf as per the Service Agreement on Coordination of Compliance and Enforcement Programs (see Appendix 2).

8.1.10 Decision/Report

The applicant will be notified in writing of LWBC's decision. Reasons for Decision are posted on the LWBC website.

8.1.11 Issuing Documents

If the application is approved, tenure documents are offered to the applicant. All LWBC preconditions must be satisfied prior to LWBC signing the documents. It is the applicant's responsibility to obtain all necessary approvals before placing improvements or commencing operations on the tenure.

Crown land tenure documents will be issued concurrently with the aquaculture licence approved by MAFF (LWBC's VISR will mail both documents to the successful proponent). Wherever possible, the provincial tenure and licence documents should be issued at the same time as other government licences and permits. Management plans and supporting materials will not be attached to the tenure document, but will be referenced in the document as being held on file by LWBC.

8.2 Competitive Process

The Service Centre or Field Office may initiate one of a number of different competitive processes (e.g. public auction, request for proposals) where permitted by program policy and when deemed appropriate by LWBC.

For more detailed standard policy and procedures regarding competitive processes see Competitive Process.

Occurrences where LWBC will have to initiate a competitive process should be minimized by the fact that aquaculture application requirements and supporting guidelines are very comprehensive and an early process for screening and queuing applications has been established. The cases where a competitive process may be required are as follows:

- competing applications are initially received on the same day by LWBC;
- LWBC invites competing expressions of interests for an area or region-specific opening or call for applications; or
- tenure previously used and considered suitable for aquaculture has expired without replacement, been cancelled or been abandoned; or
- a *Land Act* reserve, not specific to a First Nations Economic Measures MOU, which is considered best suited for aquaculture has been cancelled.

In these cases, the Aquaculture Manager will apply criteria developed in consultation with the PRT. The details of these evaluation criteria will be customized to the particular application situation, but should strive to reflect the range of factors listed below:

- potential employment/job benefits;
- implications for industry development;
- education and training opportunities;
- partnerships with First Nations or local government;
- consideration of land-use and environmental factors;
- revenue benefits for the Crown;
- the use of environmental technologies;
- compatibility with the provincial government's Sustainability Principles;
- any additional community criteria that may have been established as part of a negotiated Economic Measures MOU with First Nations.

Potential applicants will be advised of these criteria prior to submitting their application packages. The PRT will evaluate the applicability and weighting of evaluation criteria and may be asked to provide advice to LWBC.

In the case where competing aquaculture applications are determined by the above process to be of relatively equal merit, the Service Centre Director, VISR, may direct that the applicants be invited to make bonus-bid offers for the site in question. The applicant who does not have his or her bid accepted will then be offered the option of being first in queue after the accepted application as per Section 8.1.2.

If competing applications over the same parcel are for different uses (e.g. aquaculture and log handling), disposition will be on the basis of best use of the land as determined by the Service Centre Director, VISR, in consultation with other appropriate agencies.

8.2.1 Bonus Bid Process

The Service Centre Director, VISR, may decide to utilize a closed bonus-bid process in cases where aquaculture tenures have reverted to the Crown or where two or more competing applications are deemed tied after evaluation against the criteria as outlined above.

The following special procedures apply for holding a bonus-bid competitive process or auction:

- a site previously used for a particular aquaculture purpose will normally first be auctioned for the same purpose unless the Service Centre Director, VISR, determines, in consultation with MAFF, that another form of aquaculture constitutes better use;
- a closed-bid auction will be held within 12 months of the parcel(s) becoming vacant to ensure that production is not interrupted for overly long periods;
- the Service Centre Director, VISR, will ensure that procedures for disposition of sites by public competition are consistent from the aspect of administrative fairness. The same requirements as those expected of an applicant making direct application would apply to the public disposition process including advertising, local zoning and availability of upland owner's consent;
- the Service Centre Director, VISR, will consult with MAFF and DFO prior to advertising the parcel(s) for public auction regarding site suitability and production capability. Local governments, other government agencies and interest groups should also be consulted as appropriate;
- where several areas are proposed for marketing, the Service Centre Director, VISR, may advertise the areas at a single auction;
- in developing the minimum requirements for bids, the Service Centre Director, VISR, may utilize some or all of the criteria identified in Section 8.2. The Land Officer will communicate these added requirements to all potential applicants;
- the successful applicant(s) will be required to submit a management plan as per Appendix 3. The management plan will be reviewed by LWBC and, as appropriate, local governments, government agencies and interest groups.

8.3 Planned Tenure Dispositions

Planned tenure dispositions involve LWBC actively investigating and developing opportunities for Crown land tenures, followed by announced openings within specific geographic areas. Under a planned disposition project or study, Crown lands will be allocated by the Service Centre or Field Office in accordance with standard application procedures or by competitive process.

9. TENURE ADMINISTRATION

For more detailed standard policy and procedures see Tenure Administration.

9.1 Insurance

A tenure holder is generally required to purchase, and is responsible for maintaining during the term of the tenure, a minimum level of public liability insurance specified in the tenure document. LWBC may make changes to the insurance requirements and request copies of insurance policies at any time during the term of the tenure.

9.2 Security/Performance Guarantee

A security deposit or bond may be required to be posted by the tenure holder where any improvements on, or changes to, the land are proposed. The security deposit is collected to insure compliance and completion by the tenure holder of all the obligations and requirements specified in the tenure. Some examples where such security may be used are for any type of clean-up or reclamation of an area, and/or to ensure compliance with development requirements.

9.2.1 Finfish Bond

All operators are required to submit a minimum $25,000 performance bond per finfish tenure held or appropriate blanket bonds where multiple tenures are held.

A $25,000 blanket performance bond is held by the BC Salmon Farmers Association on behalf of its members.

9.2.2 Shellfish Bond

A minimum bond of $1,000 for beach culture and $2,000 for deep water is required for each shellfish tenure or appropriate blanket bonds where multiple tenures are held.

A $15,000 blanket bond is administered by the British Columbia Shellfish Growers Association for its members.

9.3 Assignment and Sub-Tenuring

Assignment is the transfer of the tenure holder's interest in the land to a third party by sale, conveyance or otherwise. Sub-tenuring means an interest in the Crown land granted by a tenant of that Crown land rather than the owner (the Province).

Assignment or sub-tenuring requires the prior written consent of LWBC. The assignee or sub-tenure holder must meet eligibility requirements. LWBC may refuse the

assignment of existing tenures if the details of the assignment or sub-tenure are not acceptable to LWBC.

Investigative and temporary permits can not be sub-tenured or assigned.

Assignments and sub-tenures require referral to MAFF for licencing under the provincial *Fisheries Act*. LWBC will notify relevant federal and provincial agencies (e.g. WLAP, DFO) of completed assignments and sub-tenures so that other licences and permits may be updated. Circumstances that would require full referral of the application for assignment or sub-tenure are detailed below.

As a condition of consent for assignment or sub-tenure, LWBC will require verifiable financial information (e.g. a statutory declaration or a financial statement from a financial institution or accountant) specifying the total value of the transaction, the component of value that is associated with the land tenure and the component that is associated with the value of improvements on the tenure.

9.3.1 Assignment

A management plan (existing or new) is required prior to assignment:

- where a plan is in place, the proposed assignee must either accept the existing plan (by initialing and dating a copy of the approved plan) or submit an amended or new management plan;
- where no plan exists, the proposed assignee must submit a complete new management plan along with supporting materials.

In the case where a new or amended management plan is submitted, LWBC will refer the plan and its supporting materials to all appropriate referral agencies for review and approval prior to assignment (e.g. there will be no amendment of management plan or supporting material during the assignment process.)

It is preferable that an application for tenure assignment be submitted with an existing management plan accepted by the proposed assignee. Once assignment is made the assignee may then apply to amend the management plan and LWBC will refer the application for review as per Section 8.1.4.

A lease or licence of occupation must be brought to a satisfactory level of development/production prior to assignment. Assignment of new tenure will not generally be allowed until after the third year of development. The following procedures apply:

- LWBC will request confirmation of diligent use from MAFF based on Annual Aquaculture Statistical Reports (AASR) of annual production figures for the site. The tenure holder is legally required to submit these reports to MAFF under the provincial *Fisheries Act*;
- if AASR data is not available for the site the tenure holder requesting assignment will do one of the following:
- submit to MAFF the over due AASR data for the most recent two years of production; or

- submit to LWBC proof of purchase (either in the form of receipts or as reported by MAFF in site inspection reports) of finfish smolts or two years worth of shellfish stocking; or
- submit to LWBC a copy of the agreement of sale of the site.

The Service Centre Director, VISR, may waive the requirement of satisfactory development and production of the site if the following applies:

- the request for assignment is a result of internal corporate restructuring (.e.g. an individual requests his tenure be assigned to a company in which he is a principal partner); and
- there is no change to the management plan; or
- the client requesting assignment holds numerous tenure and another company or person is acquiring all the holding

9.3.2 Sub-Tenuring

The Service Centre Director, VISR, will adjudicate requests for sub-tenuring on a case by case basis.

Sub-tenure documentation must either commit the sub-tenant to the aquaculture management plan of the primary tenure-holder or be based on a new management plan acceptable to LWBC. LWBC, MAFF and other referral agencies or organizations as appropriate will review all new management plans.

Rental rates for sub-leases and licences are not to be less than rates established under this policy. A revenue-sharing agreement will be negotiated with LWBC reflecting appropriate consideration for sub-tenured uses.

9.4 Tenure Replacement

Replacement tenure means a subsequent tenure document issued to the tenure holder for the same purpose and area.

In most cases, tenure holders may apply for a tenure replacement at any time following the mid-term of the tenure. Replacement of tenures is at LWBC's discretion. LWBC may decline to replace a tenure, or may alter the terms and conditions of a replacement tenure. For tenure terms and conditions see section 6.

Investigative permits are not generally replaced. A further two year term may be provided, at LWBC's discretion, when there are legitimate requirements for a longer investigative period.

9.5 Monitoring and Enforcement

Tenure terms and conditions, including requirements contained in approved management/development plans, act as the basis for monitoring and enforcing specific performance requirements over the life of the tenure.

9.5.1 Compliance and Enforcement

Compliance inspections, monitoring and enforcement actions will take place as per the service agreement on compliance and enforcement coordination between LWBC, MAFF, WLAP and MSRM and in cooperation with DFO. Refer to Appendix 2 for details on LWBC's roles and responsibilities contained within the agreement and the appended guidelines for required action for non-compliance.

9.5.2 Site Decommission/Clean-up Procedures

Upon relocation of the site the client will report to LWBC that the tenure has been left in a clean, sanitary and safe manner this will include all anchors, cables, lines and shore ties, unless otherwise directed. The client must supply the following:

- a Statutory Declaration signed in the presence of a Commissioner for taking Affidavits for British Columbia or a Notary Public in and for the Province of British Columbia swearing the site is clean, safe and sanitary; and
- a representative remotely operated vehicle (ROV) or video transect(s) of the ocean floor within and adjacent to the tenure boundary demonstrating that the site is clean, safe and sanitary.

Copies of both the Statutory Declaration and the videotape/CD will be forwarded to DFO, MAFF and WALP for their review.

MAFF will conduct audits on a representative sample of these sites to ensure the terms of the Statutory Declarations are met.

LWBC holds performance guarantees on all tenures. A performance guarantee will not be released until the Service Centre Director, VISR, is satisfied that the work has been completed to the satisfaction of the provincial and federal agencies.

Where clean up failed to occur at past abandoned sites, LWBC will investigate the existence of the past tenure holder. If the company or an affiliate exists, they will be contacted and requested to address any cleanup issues. If the previous company is no longer operative, LWBC will work with the BC Salmon Farmers Association or the British Columbia Shellfish Growers Association to address outstanding clean up of such sites.

9.5.3 Diligent Use

All aquaculturalists who have acquired a new tenure must demonstrate that work has started on the site within 12 months of being in receipt of all required licences and permits (unless the Service Centre Director, VISR, recognizes extenuating circumstances). The site is to be in full production, as outlined in the management plan, within five years of licence issuance (unless the Service Centre Director, VISR, recognizes extenuating circumstances).

Following completion of the development period all aquaculturalists must maintain diligent use. Diligent use means maintaining the level of production or production value specified in the approved management plan. Compliance with provincial waste management standards is mandatory and therefore, if the specified production level

cannot be achieved as a result of complying with the waste standards, an amended management plan must be submitted. On older tenure documents a site-specific diligent-use production level may be defined.

The objectives of diligent use are to:

- ensure that aquaculture tenure is used diligently;
- ensure that aquaculturalists know the basis for which a tenure can be cancelled;
- ensure that aquaculturalists performance is evaluated in an objective and fair manner;
- ensure that leases or licences of occupation are only provided for commercial and other approved purposes;
- fulfill commitments to DFO that tenure will be kept in good standing and used only for the approved purposes. Tenure is not to be used as a means to acquire exclusive rights to wild, common property stocks found on the site (unless specifically pre-approved for this purpose); and
- justify alienation of the Crown resource from the general public.

If the biophysical characteristics of the site preclude achievement of production levels specified in the management plan during the five-year development period, the tenure holder must submit an amended management plan for LWBC and MAFF's review.

Aquaculturalists may apply to change species or add additional species to their management plan at any time. The aquaculturalist must show, to the satisfaction of LWBC, that they have been using the tenure diligently for production of the species currently approved or show just cause why diligent use was not maintained.

LWBC or MAFF may assess diligent use at any time. The onus is on the aquaculturalist to produce verifiable evidence, satisfactory to LWBC and MAFF, that diligent use is being maintained. Verification of diligent use will be by way of:

- LWBC requesting confirmation of diligent use from MAFF based on Annual Aquaculture Statistical Reports (AASRs) of annual production figures for the site (reporting is a requirement under the provincial *Fisheries Act*); or
- MAFF conducting site inspections to verify diligent use.

Any aquaculturalist not making diligent use of their tenure will be sent a double registered letter explaining the requirement and requesting that an explanation be provided within 30 days. If a reasonable explanation is not forthcoming, a second double registered letter will be sent to the aquaculturalist indicating that unless a reasonable explanation is received within 30 days of the date of the letter the tenure may be cancelled. The Manager of Aquaculture Licensing and Compliance Branch (MAFF) and the Service Centre Director, VISR (LWBC), will adjudicate the validity of the response.

If a satisfactory explanation is not received within the time frame prescribed above, LWBC will, as a result of its own investigations or on the recommendations of MAFF, begin tenure cancellation proceedings.

The cancellation of tenure will be carried out according to Section 43 of the *Land Act*. In general, this process will require LWBC to provide notice by registered mail requesting the tenure holder to comply with the covenant, stipulation or term within 60 days after the notice is mailed.

If the default continues after the 60-day period, the disposition may be cancelled. LWBC will advise MAFF and other affected parties (e.g. WLAP, DFO, BCAA, local government, etc.) of cancellation proceedings.

LWBC, in consultation with MAFF, will decide how best to reallocate any aquaculture tenure that is cancelled due to non-diligent use.

10. VARIANCE

Any decision that would vary from this policy must be made by a Service Center Director, the Vice-President, Land and Water Operations Division, the Vice-President, Strategic Initiatives Division, the President and Chief Executive Officer, or the Land and Water BC Inc. Board of Directors.

Appendix 1. Aquaculture Policy Summary

Table 1. Summary of *Land Act* Aquaculture Tenures, Terms, Fees[1] & Rents

Tenure Type	Term of Tenure	Annual Rent Payments (GST will be added)	Up Front Administrative Fees (GST will be added)
Investigative Permit	• 2-year term • Replacement can be allowed at end of term.	$250/year, or $500 prepaid for the entire term	• Application fee - $500
Initial Licence of Occupation	• 5-year term to prove site viability and authorize experimental site operations • One replacement can be allowed at end of term.	**Finfish** • Intensive - 7.5% of Finfish Land Value (Finfish Land Value as specified in Section 7.3.1) with a $600 minimum • Extensive - 7.5% of half the Finfish Land Value with a $600 minimum • Development period – **North coast only**, for the first 5 years, 50% of the Finfish Land Value with a $600 minimum **Shellfish** • Intensive - 4% of Shellfish Land Value (Shellfish Land Value as specified in Section 7.4.1) with a $600 minimum • Extensive - 4% of half the Shellfish Land Value with a $600 minimum • Development period – for the first 5 years, 50% of the Shellfish Land Value with a $600 minimum	**Finfish and Shellfish** • Application fee - $4925 • Tenure Replacements - $2462.50 • Tenure Conversions - $2462.50 • Tenure Expansions - $2462.50 • Amendments: minor - $100 other - $500
Licence of Occupation	• 20-year licence issued following the development phase • Renewal option anytime after mid-term (10yrs)	**Finfish** • Intensive - 7.5% of Finfish Land Value with a $600 minimum • Extensive - 7.5% of half the Finfish Land Value with a $600 minimum **Shellfish** • Intensive - 4% of Shellfish Land Value with a $600 minimum • Extensive - 4% of half the Shellfish Land Value with a $600 minimum	Same as for Initial Licence of Occupation (above)

[1] Includes fees that are listed in the *Land Act* Fees Regulation. If there is a discrepancy between this table and the regulation, the regulation takes precedence.

Tenure Type	Term of Tenure	Annual Rent Payments (GST will be added)	Up Front Administrative Fees (GST will be added)
		• Replacements: ○ Intensive - 4% of double land value on file until the Shellfish Land Value is achieved ○ Extensive- 4% of double land value on file until the Shellfish Land Value is achieved ○ $600 minimum	
Lease	• 30 years • Renewal option after mid-term (15 yrs)	**Finfish** • Intensive - 8% of Finfish Land Value with a $600 minimum • Extensive - 8% of half the Finfish Land Value with a $600 minimum **Shellfish** • New tenures - 5% of Shellfish Land Value with a $600 minimum • Replacements - 5% of double the land value that is on file until the Shellfish Land Value is achieved ($600 minimum)	Same as for Initial Licence of Occupation fees (above)
Ancillary Residential Use	Upland – as per Residential Program Floating – as per aquaculture tenure	Upland - rents will be assessed as per Residential Program Floating - additional rent will be charged with a minimum additional rent of $500/year	Upland – application and processing fees as per Residential Program Floating - no additional application or processing fees

Table 2. Schedule of Fees for Fisheries Act Aquaculture Licences[2]

Fee Item	Upfront Administrative Fee (GST will be added)
Application for initial licence	**$25**
Licence amendment	**$50**
Licence and licence renewal with production value of less than $7,500: (A) aquatic plants and fish other than finfish (B) finfish	 **$50** **$100**
Licence and licence renewal with production value of at least $7,500: (A) aquatic plants and fish other than finfish (B) finfish	 **$50** **$200**

[2] From provincial *Fisheries Act* Aquaculture Regulation; includes fees for aquaculture facilities on Crown land only. If there is a discrepancy between this table and the regulation, the regulation takes precedence.

Appendix 2. Agreements with Other Agencies[3]

a) **Memorandum of Agreement between MAFF and LWBC - Regarding Administration and Development of Aquaculture on Crown land (April 2004).**

An agreement between LWBC and MAFF regarding the co-ordination of tenure and licence administration for finfish, shellfish and marine plant aquaculture.

Available via LWBC's website at:
http://www.lwbc.bc.ca/01lwbc/policies/policy/land/agreements/mou_aquaculture.pdf

b) **Service Agreement on Coordination of Compliance and Enforcement Programs between MAFF, WLAP, MSRM and LWBC (March 2002).**

An interagency agreement detailing roles and responsibilities for coordinating inspections, compliance monitoring and enforcement actions for aquaculture operations.

c) **Draft Terms of Reference – Aquaculture Project Review Team (PRT)**

d) **Terms of Reference – Directors Aquaculture Committee (DAC)**

[3] For information about these agreements contact the Manager of Aquaculture, Vancouver Island Service Region.

Appendix 3. Standard Formats for Management Plans and Supporting Materials

a) **Marine Commercial Finfish Aquaculture Management Plan**

Available at:
http://www.agf.gov.bc.ca/fisheries/siting_reloc/marineff_applic_guide_main.htm

b) **Shellfish Aquaculture Management Plan**

Available via LWBC's website at:
http://www.lwbc.bc.ca/02land/tenuring/aquaculture/shellfish/mp.pdf

Appendix 4. Aquaculture Guidebooks and Checklists

a) Finfish Aquaculture

- **Guide to Marine Finfish Aquaculture Applications in British Columbia**

  Available via LWBC's website at:
  http://www.agf.gov.bc.ca/fisheries/siting_reloc/marineff_applic_guide_main.htm

- **Criteria for Siting New Finfish Aquaculture Facilities**

  Available via LWBC's website at:
  http://www.agf.gov.bc.ca/fisheries/siting_reloc/marineff_applic_guide_main.htm#Siting%20Criteria

- **LWBC Requirements Checklist – Finfish – New Applications**

  Available via LWBC's website at:
  http://www.lwbc.bc.ca/02land/tenuring/aquaculture/finfish/lwbc_cl.pdf

b) Shellfish Aquaculture

- **Guide to Completing Shellfish Management Plans**

  Available via LWBC's website at:
  http://www.lwbc.bc.ca/02land/tenuring/aquaculture/shellfish/mp_guide.pdf

- **LWBC Requirements Checklist – Shellfish – New Applications**

  Available via LWBC's website at:
  http://www.lwbc.bc.ca/02land/tenuring/aquaculture/shellfish/lwbc_cl.pdf

c) Draft checklist for Conducting Public Open Houses for Aquaculture Applications

Appendix 5. Flow Chart of Aquaculture Application